IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 14079 of 2004

Between:

Ramayamet Educational Society, Subhash Road,

Ramayampet, Medak District, rep. by its

Vice-President/Correspondent P.Ram Chandram Goud.

..... PETITIONER

AND

1 State of A.P., rep. by its Principal Secretary to Govt.,

Higher Education Department, Secretariat, Hyderabad.
2 A.P. State Council of Higher Education,

Saifabad, Hyderabad, rep.by its Secretary.
3 Osmania University, Hyderabad, rep. by its Registrar.
4 Sri Sai Educational Society, rep.by its Secretary,

C/o.Sneha Junior College, Ramayampet, Medak Dist.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Prohibition or any other appropriate Writ or Writs, order or direction, prohibiting the 2nd respondent from proceeding further in granting permission to the fourth respondent to start a new Unaided Degree college at Ramayampet, Medak District, for the academic year 2004-2005, Award costs.

Counsel for the Petitioner : MR.N.SRIDHAR REDDY

Counsel for the Respondent No.1: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.2 : Mr.K.Ramesh Babu, SC

Counsel for the Respondent No.3 : Mr. Deepak Bhattacharjee, Standing Counsel

Counsel for the Respondent No.4 : ---

The Court made the following :

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O R D E R :

The petitioner society is running a Private Degree College known as Manjira Degree College at Ramayampet. It seeks a Writ of Prohibition restraining the Andhra Pradesh State Council of Higher Education (hereafter referred to as 'State Council') from proceeding further in granting permission to the fourth respondent to start a new un-aided College at Ramayampet for the academic year 2004-05. Be it noted, Government of Andhra Pradesh by orders in G.O.Rt.No.759, Higher Education (CE.II) Department, dated 10-9-2003 accorded special permission to the State Council to consider the proposals of the fourth respondent for establishment of a new Private Degree College at Ramayampet. This order, however, has not been challenged.

On instructions, the learned Standing Counsel for State Council, Sri K.Ramesh Babu, submits that a joint Inspection Committee inspected the premises of the fourth respondent and recommended for grant of permission for establishing a Degree College. He also submits that the Vice-Chencellor of Osmania University has also expressed his approval for starting of the College by the fourth respondent, and therefore, necessary steps are being taken in accordance with the provisions of Andhra Pradesh Education Act,1982 (for short 'the Act') and Andhra Pradesh Educational Institutions (Establishment, Recognition, Administration & Control of Institutions of Higher Education) Rules, 1987 (for brevity 'Higher Education Rules').

I have heard learned counsel for the petitioner and also learned Standing Counsel for State Council.

It is not denied before this Court that the State Council is the competent authority for according permission for establishment of a new Private Degree College. In the absence of inherent lack of jurisdiction, no public authority can be restrained by a Writ of Prohibition from exercising power under relevant Statute or the Rules. Therefore, a Writ of Prohibition would not lie and if a party is aggrieved by any action of the respondents, he has to await a decision by the public authority vested with the

jurisdiction and then challenge such decision by seeking a Writ of Certiorari or a Writ of Mandamus. Learned counsel appearing for the petitioner submits that the provisions of Section 20 of the Act have been violated by respondents 1 to 3 in considering the application of the fourth respondent. I am afraid, I cannot agree with the same. In G.O.Rt.No.759, dated 10-9-2003 the Government, which is required to exercise power under Section 20 of the Act, itself permitted the State Council to consider the application of the fourth respondent. In that view of the matter, it cannot be said that the second respondent suffers from lack of jurisdiction or authority. The writ petition is pre-mature. It is, however, open to the petitioner to challenge any permission that may be granted by the second respondent in favour of the fourth respondent raising all questions.

The writ petition, with the above observations, is dismissed at the admission stage. No costs.

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(V.V.S. RAO, J.)

Dt. 10-08-2004.

Msr.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Principal Secretary to Govt., Higher Education Department,

Government of A.P., Secretariat, Hyderabad.
2 The Secretary, A.P. State Council of Higher Education,

Saifabad, Hyderabad.
3 The Registrar, Osmania University, Hyderabad.

4. 2CCs to Government Pleader for Higher Education,

High Court of A.P., Hyderabad.

5. 2CD copies

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.14079 of 2004

Dt.10-08-2004.

(Msr)